

ENTERED

July 05, 2019

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

RICHARD VINCENT LETIZIA,
(SPN #02880904)

Plaintiff,

v.

HARRIS COUNTY TEXAS JUDGE
DAN SPJUT, *et al.*,

Defendants.

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CIVIL ACTION NO. H-19-1691

MEMORANDUM AND ORDER

Richard Vincent Letizia is in the custody of Harris County Jail, awaiting extradition to Florida on fugitive charges. Representing himself, Letizia has filed a complaint under 42 U.S.C. § 1983, alleging violations of his civil rights. The threshold question is whether Letizia may proceed with his claims. Reviewing the pleadings as required by 28 U.S.C. § 1915A, leads the court to conclude that this lawsuit must be dismissed, for reasons explained below.

Letizia alleges that he has been unlawfully detained in connection with the extradition proceeding, and that the defendants, through oppressive acts and conduct, have conspired to prevent him from effectively representing himself in his state-court proceedings. Letizia sues a former Harris County Judge, Dan Spjut; his court-appointed Public Defender, Cheryle Brown; Harris County Assistant District Attorneys, Allison Falls Coselli and Megan Scott; and the Harris County Sheriff, Ed Gonzalez. Letizia seeks emergency injunctive relief preventing his extradition and granting a stay of the state mandate.

Public records¹ show that Letizia was arrested in Harris County, Texas, in July 2016, in connection with a bench warrant issued by the State of Florida. After Letizia refused extradition to Florida, Florida applied for his extradition. The Office of the Texas Governor issued a warrant authorizing the extradition, which Letizia challenged by filing a pretrial application for a writ of habeas corpus. The trial court held a hearing, denied Letizia's requested habeas relief, remanded him to Florida, and Letizia appealed. The First Court of Appeals affirmed the trial court's order in February 2019. On June 5, 2019, the Texas Court of Criminal Appeals refused Letizia's petition for discretionary review. *See Ex parte Letizia*, No. PD-0197-19 (Tex. Crim. App. 2019). On June 17, 2019, Letizia filed a motion for rehearing, which remains pending. *Id.*

To the extent Letizia's civil rights claim for injunctive relief asks this court to intervene in the ongoing state criminal proceeding involving the requested extradition to Florida, the claim fails. Federal courts cannot interfere in state criminal proceedings unless extraordinary circumstances are present. *See Gates v. Strain*, 885 F.3d 874, 880 (5th Cir. 2018). Federal courts routinely abstain from enjoining extradition proceedings, whether directed to the demanding state or the asylum state. *See McDonald v. Burrows*, 731 F.2d 294, 298–99 (5th Cir. 1984); *Crooms v. Warder Vermillion Par. Corr. Ctr.*, No. 18-CV-303, 2018 WL 2212970, at *2 (W.D. La. Apr. 24, 2018); *Hanks v. City of Richmond*, No. 14-CV-3243, 2015 WL 361355, at *1 (D. Colo. 2015) (citing *Strickland v. Wilson*, 399 F. App'x 391, 396–97 (10th Cir. 2010); *Presley v. South Carolina*, No. 13-CV-952, 2013 WL 6193361, at *5–*6 (D.S.C. Nov. 26, 2013); *Rodgers v. Fallin*, No. CIV-12-171, 2013 WL 149716, at *4 & n.4 (W.D. Okla. Jan. 14, 2013); *Ray v. Paterson*, No. 08 Civ. 3485, 2008 WL 1752244, at *1–*2 (S.D.N.Y. Apr. 14, 2008); *Barnett v. Clark*, No. 06-CV-235, 2007 WL 1231672, at *7 (E.D. Tenn. Apr. 25, 2007)). Because Letizia's challenge to his

¹ *See Ex parte Letizia*, No. 01-16-00808-CR (Tex. App.—Houston [1st Dist.] Feb. 14, 2019).

extradition proceeding remains pending in the Court of Criminal Appeals, he does not show that he lacks an adequate opportunity to raise his constitutional challenges in state court or that extraordinary circumstances otherwise warrant federal intervention.

Letizia's complaint is dismissed without prejudice, and pending motions are denied as moot. A dismissal order is separately entered.

SIGNED on July 5, 2019, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal
Chief United States District Judge